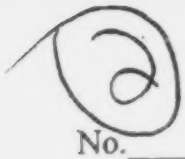
113



Supreme Court, U.S.
FILED

No. 08-710 OCT 11 2008

OFFICE OF THE CLERK

APPENDIX G

RICHARD AND SHARON THEUSCH,

Pro-Se Petitioner,

v.

TAD BERG, et al.,

Respondents,

Richard and Sharon Theusch
22308 Gateway Drive
Osakis, Minnesota 56360
320-732-3094

DEPOSITION OF MIKE BERRY

Supervisor, Leslie Township

1/26/2005

In relevant part:

Lines:

20 Q "Okay. Do you recall telling her (Mrs. Theusch) that the township had the Authority to do what they wanted Including removing her fence?

23 A Yes.

24 A Did you believe at that point as a township officer,

25 that she might feel threatened--

/s/_____

Jeanna M. Zumker, RPR

My commission expires January 31, 2010

TODD COUNTY MINNESOTA
POLICE REPORT

Name: BERG, Everett Derald
DOB: 2/28/1936, Age 67
Address: 22164 145th Ave, Osakis, MN 56360
Drivers License:
B60238139153
Role: Mentioned
Sex: Male, Race: White, Height: 5'8", Weight: 195,
Eye Color: Blue, Hair Color: Brown, LGN: T27

PUBLIC ASSIT

On 11/22/2003 at 1054 hours, Sharon Harvey (Theusch) reported that the township had cut trees on her property and she wanted someone to come out and document it.

Deputy Jon Barber #702 went to the Harvey (Theusch) residence at 22308 Gateway Drive, Section 25 Leslie Township . When I talked with Sharon she told me that Tad and Everett Berg had come out to their property on 11/14/2003 around 0930 hours and cleared the trees next to the road on their property. She stated she asked them why they were doing this and they told her they were ordered by the county to clear the trees. I was told that Tad is on the Leslie Township board.

Sharon told me that she has contacted a lawyer and looked up the laws on this issue. She told me that the township needs to give them a 14 day notice before they do any work. She also contacted the Todd County Highway Department, they told here they did not order any trees to be cut. I was also told that no other trees on the road were cut down.

I took photographs with the digital camera of the trees that were cut down and logged them under this case number.

I was also told that 109 trees were removed. I was told 23 of them were over six inches in diameter with the largest being thirteen inches in diameter.

I informed Sharon that this was a civil issue and they would need to contact the township board.
No further action was taken by this department.

DEPUTY JON BARBER #702 TODD COUNTY SHERIFF's DEPARTMENT

Page 15 of Instrument #340895

LESLIE TOWNSHIP RESOLUTION TO RECORD TOWN ROAD EASEMENTS

Description of Recorded 66 Foot Town Road Easement thru Petitioners' Property (Exhibit 16 of Court Trial Exhibits):

In revelant part: (See bold type)

Page Fifteen

Læslie Township

Road Recording

TOWNSHIP ROAD T597: (aka Bambi Trial)

A platted town road easement consisting of a strip of land 50 feet wide, commencing at a point on the south line of G.L.4 of Section 26, T129N-R35W (and 918 feet, more or less, west of the SE corner of said Section 26 and 237 feet, more or less, north of said

south line), and proceeding northerly for 127 feet more or less, there intersecting a stub road (LT-west), and then proceeding by following the plated roadway northeasterly for 1,010 feet more or less, to a point on the east section line of said Section 26 **opposite Lot 21 of Little Deer Beach Addition), and then proceeding as a town road easement 66 feet wide with 33 feet on each side of the centerline and following the existing roadbed north-NORTHEASTERLY through the NW corner of the SW1/4 SW1/4 of Section 25, T129N-R35W for 360 feet more or less,** to a point on the north line of said SW1/4 SW1/4 (and 200 feet, more or less, east of said NW corner) and continuing north-northeasterly through Government Lot 2 of said Section 25 for 700 feet, more or less, to the SE corner of a lakeshore lot (tax I.D. #15-0030000) there intersection the south plat line and south line of Lot

9 of Hughes' Lake Addition in Government Lot 2 of Section 25, T120N-R365W, and continuing northerly as noted in said plat, and proceeding as a 66 foot wide platted right-of-way road easement for 534.65 feet, more or less, to the north line of Lot 1 of said plat in Government Lot 1 of said Section 25, with the width of the R.O.W. being 66 feet at said north line, (all of the platted portions of the road as shown in the plats of Lake Osakis Acres, Little deer, and Hughes Lake Addition on file in the Todd County Recorder's office), and there terminating.

TRACT INFORMATION

Section 26: G.L.4 Lake Osakis Acres Plat, Little Deer Plat,

Section 25: GL.1, Hughes Lake Addition

OFFICE OF COUNTY RECORDER
STATE OF MINNESOTA

COUNTY OF TODD

I hereby certify that the within instrument was filed in this office for record on the 12th day of February A.D. 1991 at 10 o'clock a.m. and was duly recorded as Microfilm No. 340895

/s/

Cherly Perish

County Recorder

By: /s/ Elaine Johnson

Deputy

1960 LITTLE DEAR BEACH ADDITION PLAT

(Exhibit #3 Plaintiffs List of Exhibits for Trial)

Filed July 26, 2006

In relevant part:

"All of said tract being a part of Government Lot (4), Section Twenty-six (26), Township One Hundred and Twenty-nine (129), Range Thirty-five (35), have caused the same to be surveyed, divided, monumented and platted into 28 lots numbered 1 to 28 inclusive, all as shown on the annexed plat, and to be now and hereafter known as "Little Deer Beach Addition" to Leslie Township, Todd County, Minnesota, and do hereby dedicate to the public use **forever,** the platted as shown on the annexed plat. Platted and dedicated in accordance with Section 505.2 thru 505.04 Minnesota Statutes.

"IN TESTIMONY WHEREOF, We have hereunto set our hands this 4th day of October, 1960."……

COUNTY OF TODD

"On this 4th day of October, 1960 before me a Notary Public, within and for said County, personally appeared Clayton J. Moulton and Mabel G. Moulton, his wife and M.A. Brekke and E. Brekke, his wife, to me know to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.:"

/s/_____

LOGAN O. SCOW, Notary Public

Todd County, Minnesota

My Commission Expires February 22, 1963

"This is to certify that the within plat was examined by the Board of County Commissioners at a regular meeting held on October 10, 1960, and approved by the same on this 10th day of October, 1960."

/s/_____

Raymond La Voie, Chairman of the Board

"On this 22nd day of August AD 1960, be me personally appeared Casper O. Maxson, Dodge County Surveyor, to me personally appeared and stated he executed the above certificate of said survey and he did so as his free act and deed."

/s/_____

Leo Stucky, Notary of Public

STATE OF MINNESOTA)

COUNTY OF TODD) **#0256**

"This is to certify that the within instrument was filed in the Office of Long Prairie, on the 14th day of October 1960 at 4 o'clock p.m."

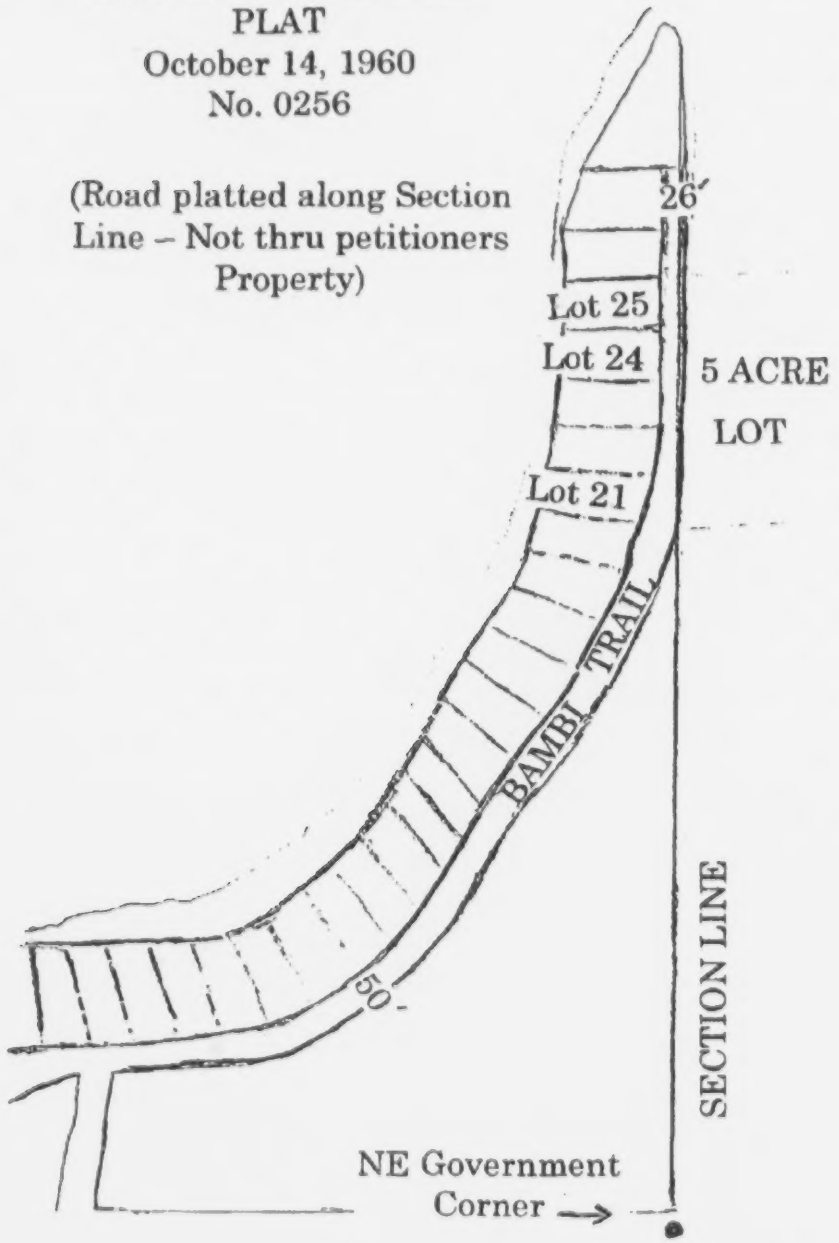
/s/_____

Fred L. Dalhman

Register of Titles

LITTLE DEER BEACH
PLAT
October 14, 1960
No. 0256

(Road platted along Section Line – Not thru petitioners Property)



LITTLE OSAKIS ACRES (Plat)

Todd County, Minnesota

In Relevant Part:

Approved by the Todd County Board of Commissioners on thes 6th day of October 1981

/s/_____

Stan Sumey

Chairman, Todd County Board of Commissioners

Attest:

/s/_____

Melvin Bense

County Auditor

REGISTRAR OF TITLES

Todd County Minnesota

DOCUMENT NUMBER: 1208

I hereby certify this instrument was filed in the office of the Registrar of Titles for record this 19 day

October **1981** at 2 o'clock p.m.

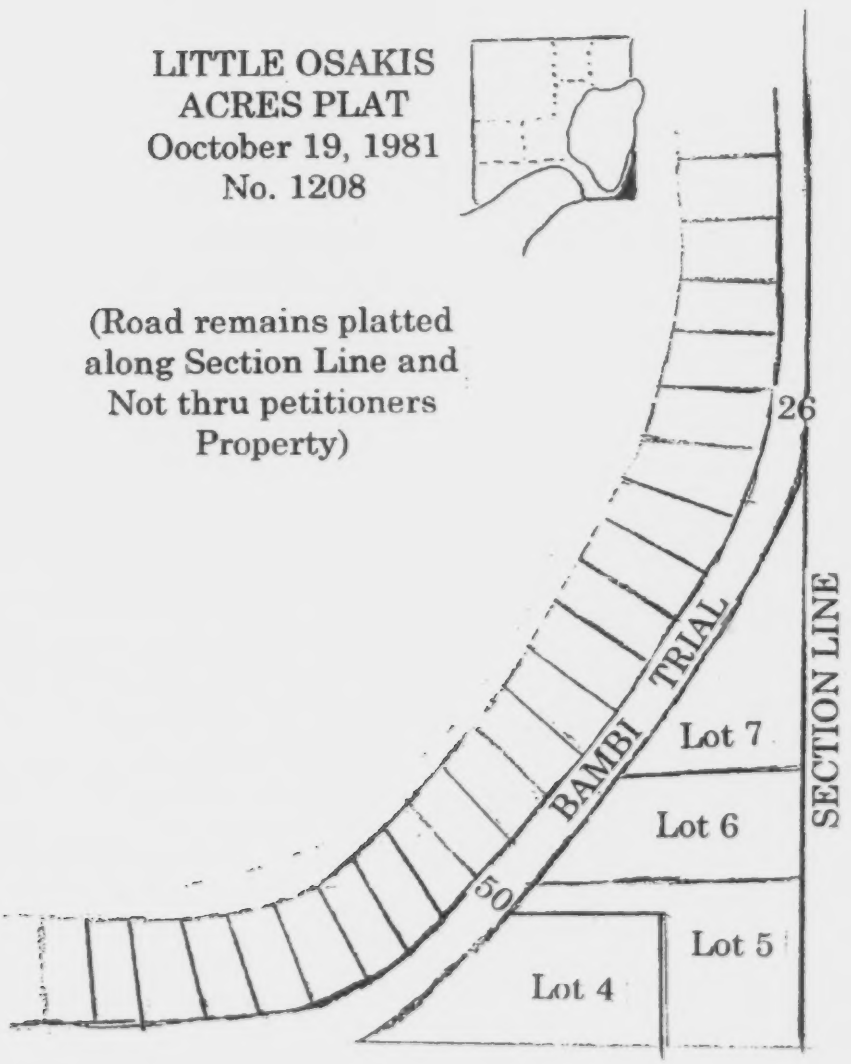
/s/_____

Fred L. Dahlman

Registrar of Titles, Todd County

LITTLE OSAKIS
ACRES PLAT
Ooctober 19, 1981
No. 1208

(Road remains platted
along Section Line and
Not thru petitioners
Property)



NORTHSTAR SURVEYING

Certificate of Survey

April 06, 2004

Survey done for Richard Theusch

(Court Exhibit #1 – Theusch Deposition Exhibit #39)

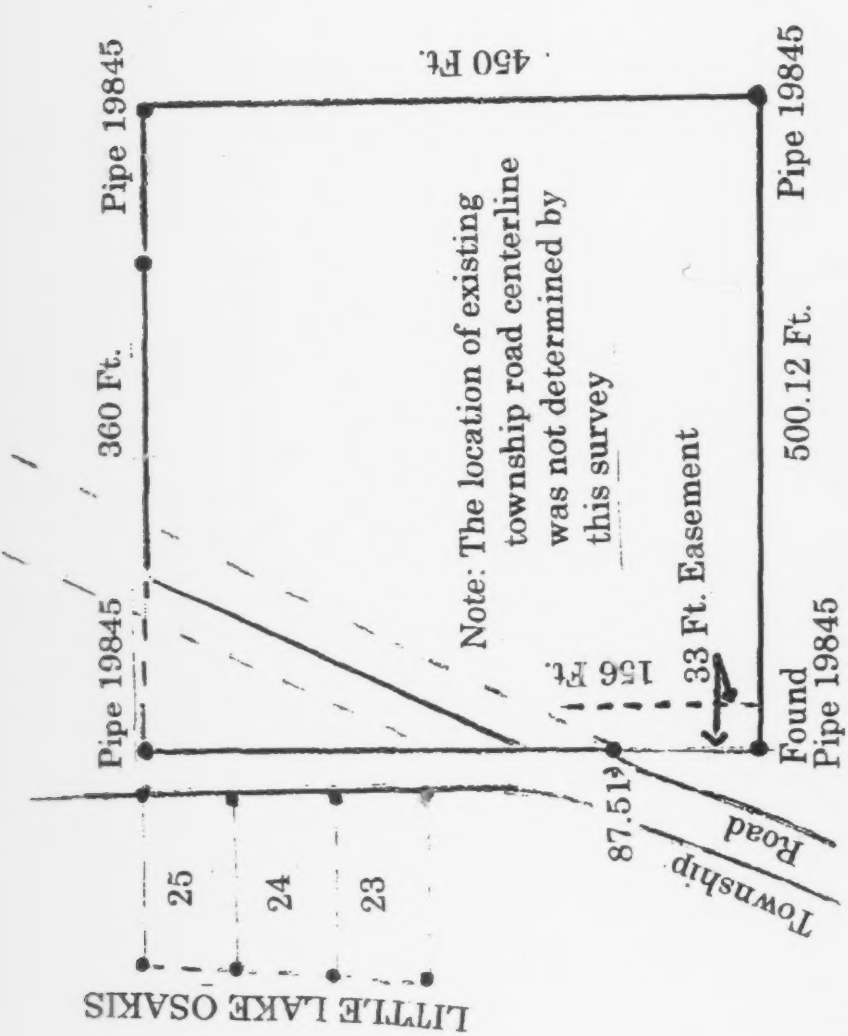
In relevant part:

Legal Description (same as deed)

"SCOPE OF WORK"

1. Showing the length and direction of boundary lines of the above legal description. The scope of our services does not include determining what you own, which is a legal matter. Please check the legal description with your records or consult with competent legal counsel, if necessary, to make sure that it is correct, and that any matters of record, such as easements, that you wish shown on the survey, have been shown.

Setting new monuments or verifying old monuments to mark corners of the property.



NORTH STAR SURVEYING INC.

720 Sourth First Street

Darwin Minnesota 55324

Phone No. (320) 693-3710

"I hereby certify this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly registered land surveyor under the laws of the state of Minnesota"

/s/_____

Larry Huba

Reg. No. 24332

Date: 4/6/2004

ENGELMEYER SURVEYING

Certificate of Survey

November 24, 2004

Prepared for: Sharon Theusch

(Engelmeyer Deposition Exhibit # 1)

(Theusch Deposition Exhibit #1)

In relevant part:

LEGAL DESCRIPTION: (same as deed)

o Denotes iron pipe placed this survey

• Denotes iron pipe found this survey

"I hereby certify that this survey was prepared by me or under my direct supervision, and that I am a duly registered land surveyor under the laws of the State of Minnesota"

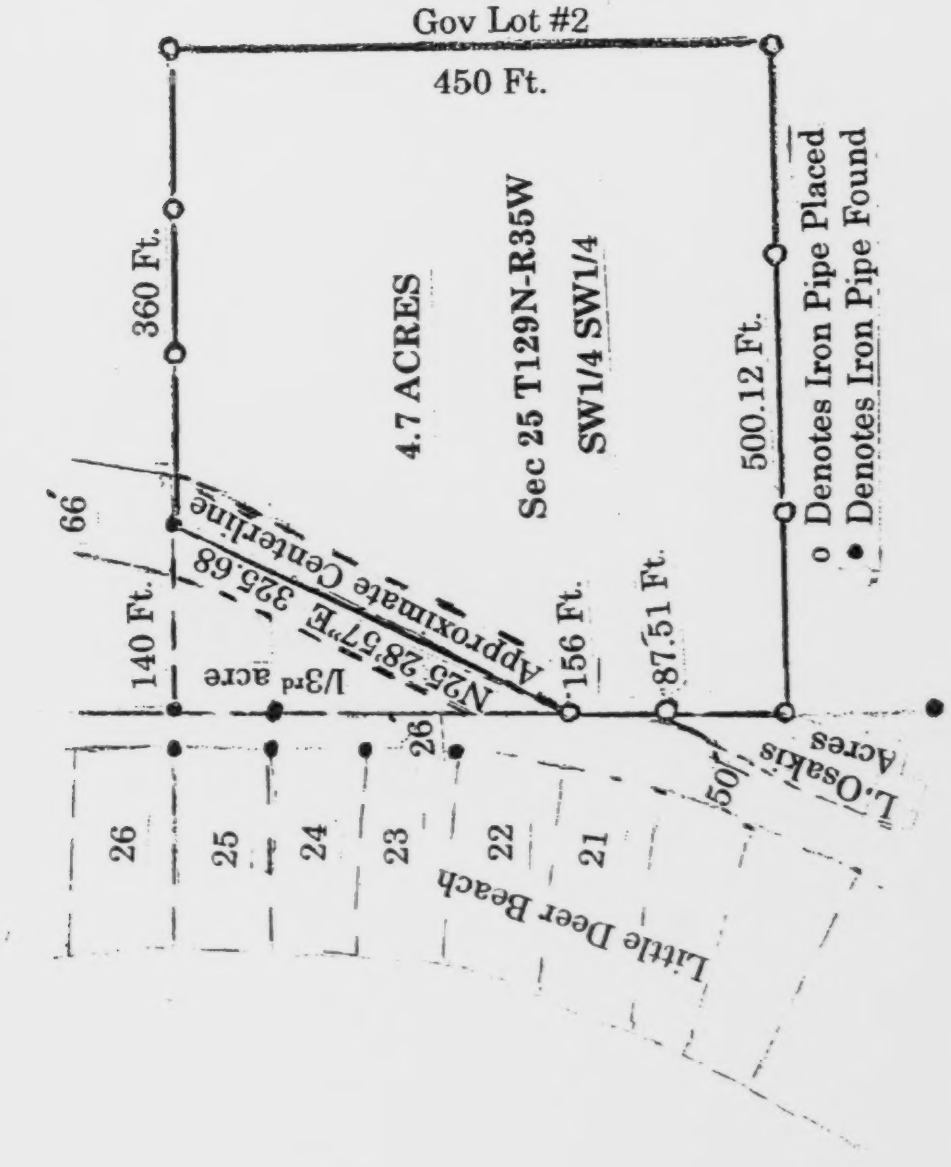
November 24, 2004

/s/_____

Ronald Engelmeyer, Land Surveyor

App. 69

Minnesota registration No. 13334



JOB NO. 333-04

ENGELMEYER SURVEYING P.A.

307A East Main Street

Melrose, Minn. 56352

320-256-7298

LETTER TO ENGELMEYER SURVEYING

Dated: September 28, 2004

Exhibit #40 of Theusch Deposition Filed with Court

In relevant part states:

"When the survey crew was packing up I went outside to ask if they understood where our easement was. To my knowledge and to a prior survey ...our easement is 33' along our Westerly Line of our property". Mr. Croatt (Engelmeyer's employee) said, "your easement is on the entire side of your property next to the road (pointing to our NE line). Mr. Groatt went on to say "That if this goes to Court, I will testify that the township has an easement to your property." He said, "our Northeast line was the same as our West Line. "

"Mr. Groatt went on to say, "That if this goes to Court, "you will not win". I was appalled, this stranger on our property whom we turned our trust over to , not only knew about my problems with the Township but was also threatening to testify against me before his work was even validated by a Licensed Surveyor....."

HALF SECTION MAP

S ½ SEC. 25 T. 129 R 35

DATE COMPLETED 3/22/1983

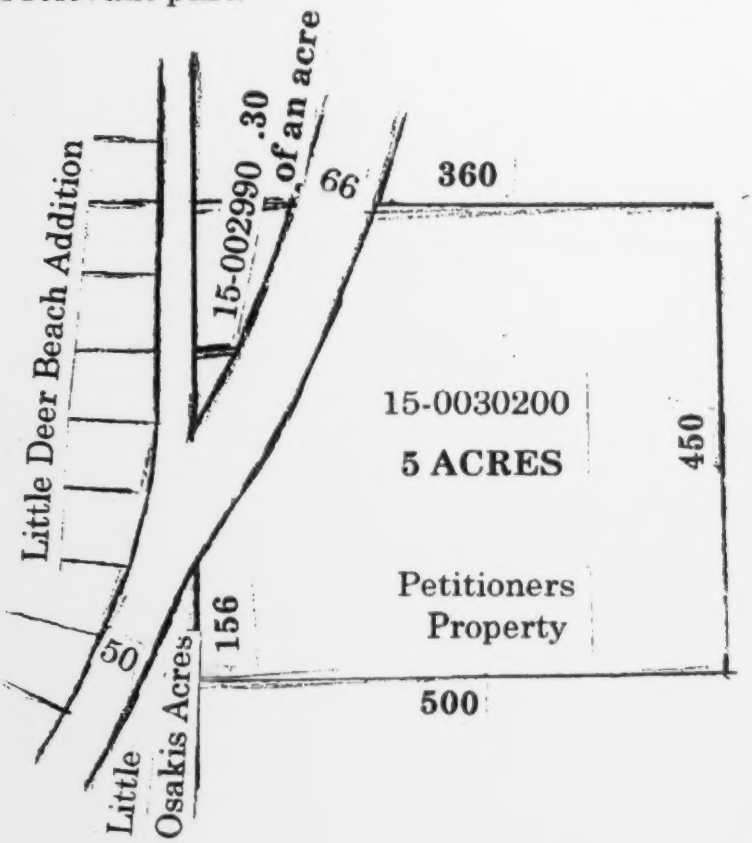
DATE REVISED: 5/21/1990

RONALD ENGELMEYER

TODD COUNTY SURVEYOR 8/23/1993

(Court Exhibit #2)

In relevant part:



G. MARLENE CLARK
ATTORNEY AT LAW
25 3RD St.South Long Prairie, Minn 56347
Office. 320732-2918
Fax. 320-732-2586

August 6, 2006

The Honorable Judge Walker
Judge of District Court
Todd County Court Facilities
Long Prairie, MN 56347

RE: Theusch v. Berg and Leslie Township
Court File No C3-05-492

Dear Judge Walker:

This case is set for jury trial to start on Wednesday, August 9 2006. I recently discovered evidence which is relevant to the disposition of this case, and not wishing to spring a surprise on the opposing part of the court, I felt it necessary and appropriate to address this issue prior to trail. The facts that I have discovered are discrepancies in the Leslie Township Resolution to Record Town Road Easements.

We were previously aware that my clients had not been notified of the proceedings even though one of the proposed roads which had not been purchased or obtained by any means by the township ran right through their property.

We also were aware that the township only published the notice for one week seven days prior to the hearing instead of the statutory requirement of 2

weeks with the second publication beings at least 10 days prior to the hearing.

We were not aware that the hearing notice was statutorily defective, nor did we know that the hearing notices sent to those property owners on the mailing list were not sent until April 11, 1990, seven days before the hearing instead of the statutory 30 day requirement.

We also did not discover that the township's recording of the resolution was on February 12, 1991, one hundred and ninety-six (196) days after the township adoption of the resolution on July 31, 1990. By statute, the township was required to record the resolution within 90 days after adoption.

Because townships are now required to record their roads and Leslie Township failed to property record their Town Road Resolution it begs the question, does the township have any legal roads? And if they don't have any legal roads, how could

they possibly have a right to cut the trees on private property?

By facsimile copy of this letter and attached documentation, I am notifying Gordon Hansmeier, attorney for Tad and Everett Berg and Leslie Township of the newly discovered evidence. I am also providing the Court with a certified copy of "A Resolution by Leslie Township, Town County, Minnesota to record Town Road Easements".

Respectfully,

/s/_____

G. MARLENE CLARK, PA.

GMC

Enclosure

cc. Gordon Hansmeier
Richard and Sharon Theusch
(Filed in District Court August 8, 2006)

HEARTWOOD FORESTRY
Kati Himanga, Consulting Forester

August 15, 2006

Judge Walker
Todd County Government Center
221 First Avenue Sout
Long Prairie, MN 56347

Re: C3-05-492

Honorable Judge Walker:

Enclosed please find photograph Exhibit 28 which I inadvertently took with me on August 10 after giving testimony.

I apologize for this oversight on my part.

Sincerely,

/s/ _____

Katie Himanga, CF

DISTRICT COURT OF TODD COUNTY

FILED

August 08, 2006

Tammie L. Chapin,

Court Administrator

STATE OF MINNESOTA
COUNTY OF TODD
IN DISTRICT COURT
SEVENTH JUDICIAL DISTRICT
CIVIL DIVIDISON
Court File No. C3-05-492
JUDGE: HONORABLE TIMOTHY BALAND

RICHARD AND SHARON THEUSCH.
Plaintiffs,

v.

TAD BERG AND EVERETT BERT,
INDIVIDUALLY AND AS EMPLOYEES OF
OR SUBCONTRACTORS OF LESLIE
TOWNSHIP AND LESLIE TOWNSHIP
Defendants,

DEFENDANTS' RESPONSES TO PLAINTIFFS' REQUEST FOR PRODUCTION OF DOCUMENTS

TO: PLAINTIFFS RICHARD AND SHARON THEUSCH, AND THEIR ATTORNEY OF RECORD G. MARLENE CLARK, 25 3rd STREET SOUTH, LONG PRAIRIE, MN 56347

Defendants Tad Berg, Everett Berg and Leslie Township, for their Responses to Plaintiffs' Request for Production of Documents state and allege as follows:

REQUEST NO. 1: Please provide all data reviewed and relied upon by your expert for purposes of this case. "Data" shall include but not limited to photos, government documents, maps, elevation

charts, reports and any written photographic, or tangible evidence which was reviewed by your expert for purposes of this litigation.

RESPONSE: This demand is objected to on the basis that it is untimely under the Court's October 28, 2005 , Scheduling Order. All discovery was to be completed by February 1, 2006, and this demand is not due until after that date.

REQUEST NO. 2: All documents and records of any sort identified or relied upon in your answers to interrogatories.

RESPONSE: This demand is objected to on the basis that it is untimely under the Court's October 28, 2005, Scheduling Order. All discovery was to be completed by February 1, 2006, and this demand is not due until after that date.

REQUEST NO. 3: All other documents, as defined below, which have not been specifically requested in the foregoing demands, but which are in your possession and related to the subject matter of this litigation.

RESPONSE: This demand is objected to on the basis that it is untimely under the Court's October 28, 2005, Scheduling Order. All discovery was to be completed by February 1, 2006, and this demand is not due until after that date.

REQUEST NO. 4: Copy of any survey(s) done on Plaintiff's property.

RESPONSE: This demand is objected to on the basis that it is untimely under the Court's October 28, 2005, Scheduling Order. All discovery was to be completed by February 1, 2006, and this demand is not due until after that date.

Dated this 31st day of January, 2006.

RAJKOWSKI HANSMEIER, LTD.

BY /s/_____

GORDON H. HANSMEIER– 40770
Attorney for Defendants
11 Seventh Avenue North
P.O. Box 1433
St. Cloud, Minnesota 56302
Telephone: (320) 251-1055

STATE OF MINNESOTA
COUNTY OF TODD
IN DISTRICT COURT
SEVENTH JUDICIAL DISTRICT
CIVIL DIVISION
Court File No. C3-05-492
JUDGE HONORABLE TIMONTHY BALAND

RICHARD AND SHARON THEUSCH

Plaintiffs,

v.

TAD BERG AND EVERETT BERG, INDIVIDUALLY AND AS EMPLOYEES OF OR SUBCONTRACTORS OF LESLIE TOWNSHIP AND LESLIE TOWNSHIP

Defendants.

DEFENDANTS' ANSWERS TO PLAINTIFFS' INTERROGATORIES

TO: PLAINTIFFS RICHARD AND SHARON THEUSCH, AND THEIR ATTORNEY OF RECORD G. MARLENE CLEARK, 25 3rd STREET SOUTH, LONG PRAIRIE, MN 56347

Defendants Tad Berg, Everett Berg and Leslie Township, for their Answers to Plaintiffs' Interrogatories state and allege as follows:

INTERROGATORY NO. 1: State the name, last known address and telephone number of all individuals who have knowledge or information with regard to the subject matter of this lawsuit; describe in detail the information said witnesses possess.

ANSWER: These interrogatories are objected to on the basis that they are untimely

under the Court's October 28, 2005, Scheduling Order. All discovery was to be completed by

February 1, 2006, and these interrogatories are not due until after that date.

INTERROGATORY NO. 2: Identify and exhibits you intend to introduce at trial.

ANSWER: These interrogatories are objected to on the basis that they are untimely under the Court's October 28, 2005, Scheduling Order. All discovery was to be completed by February 1, 2006, and these interrogatories are not due until after that date.

INTERROGATORY NO. 3.: For each expert you will rely upon at trial, state the following:

a) The name and address of the expert,

b) The subject matter on which the expert is expected to testify.

c) The substance of the facts and opinions to which each expert is expected to testify.

ANSWER: These interrogatories are objected to on the basis that they are untimely under the Court's October 28, 2005, Scheduling Order. All discovery was to be completed by February 1, 2006, and these interrogatories are not due until after that date.

INTERROGATORY NO. 4: Describe in detail all written or oral communications that you, or any of your agents have had with Plaintiffs or anyone else concerning the subject matter of this litigation.

ANSWER: These interrogatories are objected to on the basis that they are untimely under the Court's October 28, 2005, Scheduling Order. All discovery was to be completed by February 1, 2006, and these interrogatories are not due until after that date.

INTERROGATORY NO. 5: Name and Company who did the surveying of the Plaintiff's property, who from the company did the survey, and who was present when the survey was done.?

ANSWER: These interrogatories are objected to on the basis that they are untimely under the Court's October 28, 2005, Scheduling Order. All discovery was to be completed by February 1, 2006, and these interrogatories are not due until after the date.

INTERROGATORY NO. 6: If Mr. Hansmeier was not present when the survey was done, when did he look at the Plaintiff's property?

ANSWER: These interrogatories and objected to on the basis that they are untimely under the Court's October 28, 2005 Scheduling Order. All discovery was to be completed by February 1, 2006, and these interrogatories re not due until after that date. In addition, this

interrogatory is objected to on the basis work product.

Dated this 31st day of January, 2006.

RAJKOWSKI HANSMEIER, LTD.

By /s/_____

GORDON H. HANSMEIER – 40770
Attorney for Defendants
11 Seventh Avenue North
P.O. Box 1422
St. Cloud, Minnesota 56302
Telephone: (320) 251-1055

MINUTES OF THE TODD COUNTY BOARD OF ADJUSTMENT MEETNG

JUNE 3, 2004

(Involves the adjoining one third acre connecting to petitioners' Northeast Line next to the alleged town road with the seven foot high, seventy foot long septice mound installed in 2005)

In relevant part states:

(3) "David Ostrander" Little Osakis Lake, Beg at NE Corner of Lot 25, Little Deer Beach, Section 25, Leslies township. (0.30 acres)"

"Variance to split off a portion of this lot to be sold to the neighbor who wants to use the site for their sewer drainfield. Variance is required to subdivide a substandard lot and to create a new substandard lot.

"David Ostrander & Pat Seri were present at the hearing. Loren and Jim made the onsite, video taped the site and this was shown. Pat said they were to the **township board and were given permission to put the sewer line under the road** and the drainfield would be placed back on this lot. Pat said they have a sewer design from Becker Escavating Co.

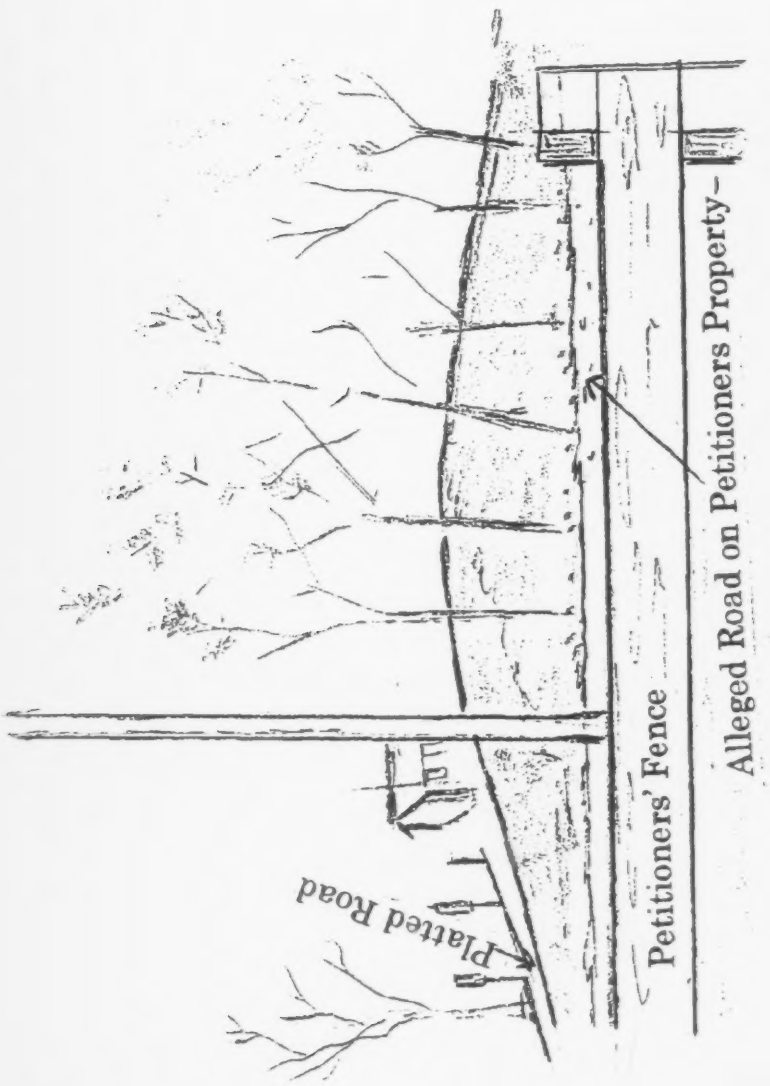
Jim gave the Zoning Office staff report: ....."Both lots would remain non-conforming. 2) It would be legal to grant an easement for the drainfield without transferring any property. This would not change the size or status of the lots. 3) If the applicant were denied the variance they would have the option of a holding tank. 4) If this application is granted a condition should be placed that this parcel should be forever joined and it be used solely for the purpose of installing a drainfield."

".....Will the issuance of the variance maintair the essential character of the locality? Gene – yes because it will only be used for sewering. All yes. 5) Does the alleged hardship involve more than economic considerations? Loren – yes, it involves sewer. All yes. 6) Will the issuance of the variance be in keeping with the spirit and intent of this ordinance, The County Comprehensive Plan and will not increase or cause danger to life or property? Bill – yes, upgrading sewer and meeting set backs. All yes."

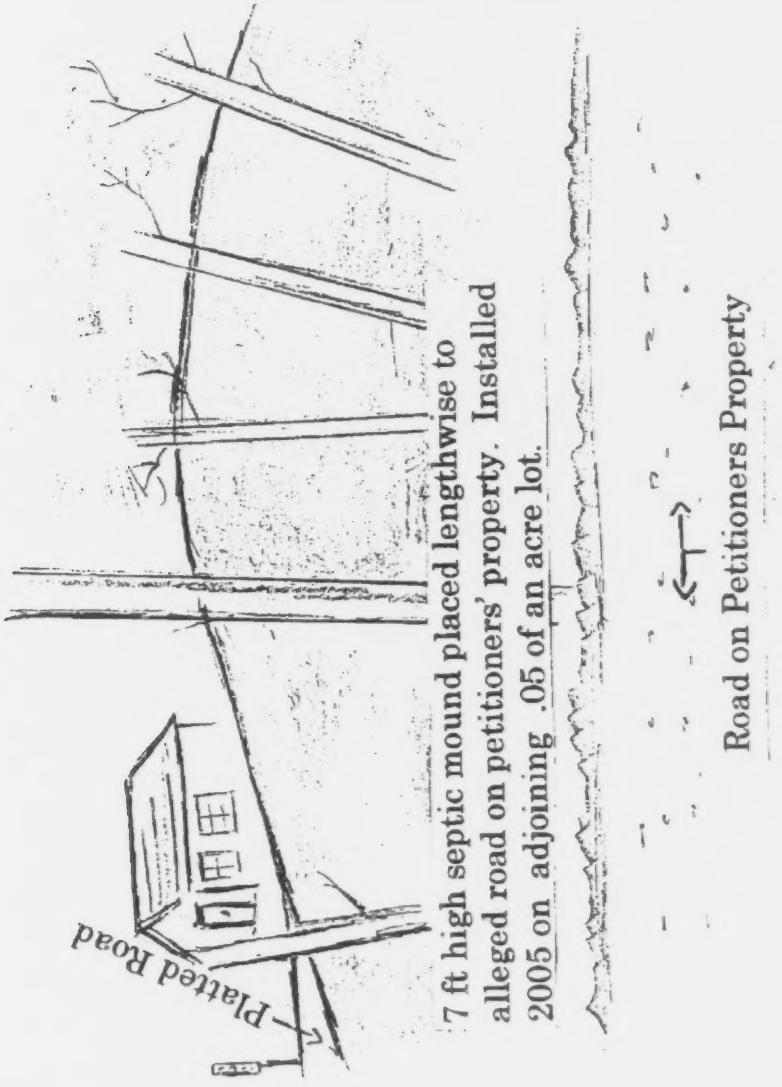
"Gene made the motion based on the findings to grant the variance on condition the newly created parcel be forever joined to lot 23, Little Deer Beach (Parcel #15-0063900) and used solely for the purpose of installing a drainfield. Bill seconded. No further discussion. Motion carried unanimously.
Meeting adjourned."

App. 94

Reproduction of Photo of Large Septic Mound Installed in 2005 on Adjoining (newly divided) .05 of an Acre Lot Next to Alleged Town Road



Reproduction of Photo of Septic Mound on Adjoining Lot Viewed From Front Yard of Petitioners Property Along Alleged Town Road


7 ft high septic mound placed lengthwise to alleged road on petitioners' property. Installed 2005 on adjoining .05 of an acre lot.
Road on Petitioners Property
Platted Road

STATE OF MINNESOTA
COUNTY OF TODD
IN DISTRICT COURT
SEVENTH JUDICIAL DISTRICT
CIVIL DIVISION
Court File No. C3-05-492

RICHARD AND SHARON THEUSCH
Plaintiffs,

v.

TAD BERG AND EVERETT BERG, INDIVIDUALLY AND AS EMPLOYEES OF OR SUBCONTRACTORS OF LESLIE TOWNSHIP AND LESLIE TOWNSHIP
Defendants,

NOTICE OF TAKING VIDEO TRIAL DEPOSTION OF RON ENGELMEYER

PLEASE TAKE NOTICE that the video deposition of Ron Engelmeyer, by oral examination will be taken before a qualified notary public, for all purposes allowed by Minnesota Rules of Civil Procedure, at Rajkowski Hansmeier, Ltd., 11 Seventh Avenue North, City of St. Cloud, County of Stearns, State of Minnesota, on the 4th day of August 2005, at 10:00 a.m. and thereafter by adjournment until the same shall be completed.

Dated this 24th day of July, 2006.

RAJKOWSKI HANSMEIER, LTD.

BY /s/_____

GORDON H. HANSMEIER -40770

Attorneys for Defendants

11 Seventh Avenue North
P.O. Box 1433
St. Cloud, Minnesota 56302
Telephone" (320) 251-1055

Twenty-six Page Trial Memoranda Filed with Court September 8, 2006 by Petitioners' Attorney in Relevant Part:

STATE OF MINNESOTA " VOID
TODD COUNTY W W"

IN DISTRICT COURT
SEVENTH JUDICIAL DISTRICT
COURT FILE NO. C3-05-492

RICHARD AND SHARON THEUSCH
Plaintiffs,

v.

TAD BERG AND EVERETT BERG, INDIVIDUALLY AND AS EMPLOYEES OF OR SUBCONTRACTORS OF LESLIE TOWNSHIP AND LESLIE TOWNSHIP,
Defendants.

FIINDINGS OF FACT
CONCLUSIONS OF LAW ORDER FOR
JUDGMENT AND JUDGMENT AND DECREE

STATEMENT OF CASE

The parties are Plaintiffs.....

DISTRICT COURT
TODD COUNTY
FILED
SEPTEMBER 08, 2006
Tammie L. Chapin
Court Administrator

Taxation of Costs and Bill of Costs and Disbursements Petitioners were Ordered to pay October 4th 2006 Order for Judgment District Court of Todd County MN in relevant part:

NOTICE OF TAXATION OF COSTS AND DISBURSEMENTS

Page 2

COSTS AND DISBURSEMENTS

Statutory Cost.....	$200.00
Court Administrator	
(Filing fee/**Jury Fee**/Fax filing fee).....	$340.00
Deposition Charges	
Advantage Court Reporting.....	$601.80
(Deposition of Tad and Everett Berg, Mike Berry, Sharon and Richard Theusch)	
Hubert Court Reporting	

App. 102

(Transcript Deposition of
Ron Engelmeyer..... $252.50

App. 11

Pat Curto..... $ 250.00
(Videotaped Depostion of
Ron Engelmeyer)

EXPERT FEES:

Granite City Appraisal
(appraisal, trial testimony and
travel..... $3,113.90

Kramer Leas Deleo..... $1,747.50

Engelmeyer Surveying P.A.
(Surveyor-Trial Deposition).... $ 300.00

Heartwood Forestry
(appraisal and expert testimony) $ 600.00

Miscellaneous Expenses:

Lawyers Process Service

(Service of Process) $ 185.00

Kennedy & Nervig LLP

(mediation services)..... $ 740.00

Witness Fees..... $ 145.86

TOTAL COSTS AND DISBURSEMENTS:

$8,476.56

The Costs and Disbursements in the above-entitled action are hereby taxes and allowed at the sum of **$8,476.56**

Dated this _____ day of November, 2006.

COURT ADMINISTRATOR

By_____

Deputy

Resume of Petitioners' Expert Forester Witness Who Testified During Trial:
(Court Exhibit #19)

CARL E. VOGT

Education:

Forestry, N.Y.S. College of Forestry-B.S.

Forest Biology, Syracuse University-B.S.F.

Biological Science, University of Minnesota-B.S.

Adv. Work, University of Minnesota

Affiliations and Committees:

Society of American Foresters

Minnesota Association of Arboriculture

Walnut Council

American Forestry Association

President (1983-1984) Minnesota Christmas Tree Growers' Association

Board member (1983-1993) Minnesota Maple Syrup

Producers Association

Minn. Farm Mangers & Appraisers Association

Director (1987-1998) North American Maple Syrup Council

Past Chairman – Society of American Foresters-So. Minnesota Chapter

Northern Nut Growers Association

Minnesota Forestry Association

Minnesota Christmas Tree Association

City of Maple Grove Tree Board (1987-1990)

Distinguished Forestry Award (1988) – Minnesota Forestry Association

U of M Forestry Club Award (1977-1980-1993-1997)

President (1993) Minnesota Maple Syrup Producers Association

Secretary/Treasure, (1989-2003) North American Maple Syrup Council

Professor of the Semester (2003) CNR – University Of Minnesota

Professor of the Semester (2004) CNR – University Of Minnesota

Professor of the Smester (2005) CNR – University Of Minnesota

Publications:

Conservation Volunteer. Private Forest Manage-Ment" & "The School Arboretun"

Journal of Forestry: "Utilizing the 21st Classroom"

The Minnesota Horticulturist. "Landscaping for Learning"

Minn. Dept. of Voc. Training, "Managing Natural Resources"

Minn. Dept. of Nat. Resources: "Pathways to the Outdoors"

Minn. Env. Sciences Foundation: "Planning An Awareness Environment"

U.S. Fish & Wildlife Service. "Site Planning Guide"

National Wildlife Federation:. "Outdoor Activities"

Editor – "Minnesota Maple News" – MMSPA

Editor. "Christmas Tree Newsletter" – MCTGA

Developed & Edited over 250 Site Plans in the U.S. & Canada

Proceedings – Owners & Users Conference – U of M & DNR

Author. "Minnesota Maple Fact Sheets" U of M

Co-Author. "Growing Black Walnut Trees in Minn. " – U of M

Co-Author & Photographer. "Black Walnut Slide Series" – U of M

Co-Author. "Growing Christmas Trees in the Upper Midwest" – U of M

Certifications:

Nursery Inspection License # 20014258

Second Education: Biological & Physical Seciences

Professional Experience:

Laboratory Instructor-N.Y.S. College of Forestry
1963 thru 1964

Forester – Minnesota Conservation Department
1964 thru 1968

Planning Coordinator – Minn. Env. Sciences Foundation 1968 thru 1975

Municipal Tree Inspector 1975-1989

Consulting Forester 1973 –

Consulting Arborist 1975 –

Extension Forester (Part-time) Univ. of Minnesota
1977

Instructor (Part-time) College of Nat. Res. Univ. of Minnesota 1980 –

Nursery Operator 1976

CALLIES LAW

August 1, 2007

Sharon and Richard Theusch
22308 Gateway Drive
Osakis, MN 56360

Re: Theusch v. Berg and Leslie Township
Court of Appeal No: A07-848

Dear Mr. and Mrs. Theusch:

Enclosed is a copy of the Notice of Withdrawal of Counsel that has been filed with the Clerk of Appeals.

Please be advised that withdrawal of an attorney does not create any right to extend briefing deadlines or postpone argument. All briefs have already been submitted in a timely manner and the oral argument has not yet been scheduled as of today. The Court of Appeals will send future notices in this matter to you directly. I will forward anything that I receive in the interim to you.

Sincerely,

*/s/*_____

PAULA A. CALLIES
Callies Law, PLLC
1450 The Colonard
5500 Wayzata Blvd.
Minneapolis, Minnesota 55416
(763) 546-8020

Enc.

June 27, 1986

Dick Bautch
MN Department of Transportation
501 South Victory Dr.
Mankato, Minnesota 56001

Dear Dick:

Enclosed is our final report for the special project regarding the recording of township roads. As you know I had hoped that the final report would be adopted legislation allowing an alternative method of recording roads.

I'm convinced that the support exists to pass legislation allowing for an alternative recording process. The problem is to carefully word legislation that simplifies the existing process and makes it more economical to record roads.

The last exhibit in this report is one final attempt to draft proposed legislation which will accomplish our goal of cost effectiveness and simplicity. Although our grant period is over, I intend to personally track this proposal for another legislative session.

Within a few days our fiscal officer, Lorraine Patton, will mail the necessary financial documents regarding this grant.

Sincerely,

H. Eugene Hippe
Executive Director
HEH:kr
Encl.
cc. Merrit Linzine

333 West Sixth Street, Willmar, Minnesota 56202
(612) 35-8504

A PROPOSAL FOR AN ALTERNATE METHOD TO RECORD TOWNSHIP ROADS/TOWN ROAD STUDY
FINAL REPORT TO MNDOT

Township Road Study Page 23 in relevant part:

"Research conducted in the county recorder's offices may have provided the most important source of information in the Town Road Study. **According to current law, township road orders relating to establishment, vacation and alteration of a road must be filed with the county recorder."**

TOWNSHIP ROAD MILEAGE CERTIFICATION

I hereby certify that the mileage listed for **LESLIE** Township in the County of Todd is that mileage that has been maintained and open to the traveling public at least eight months of the years 1987.

- 1986 Mileage 38.188 miles.

DATE: October 27, 1987

/s/_____

Leslie B. Berry

Signature, Township Officer

- As submitted to County Engineer's Office by Township
  Actual field measurement not verified by County.

  Please Return By Novemeber 12 to:

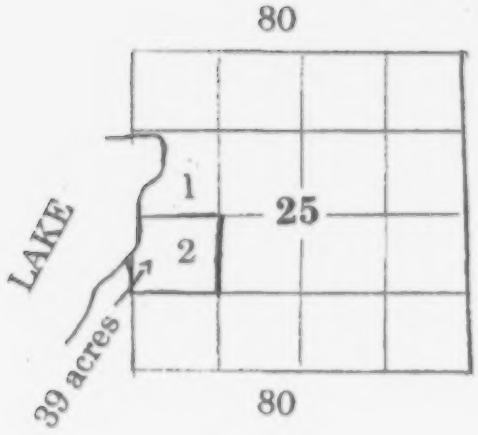
  Todd County Highway Department
  Rt. 4 Box 5
  Long Prairie, Minnesota 56347

ABSTRACT OF TITLE

TO THE FOLLOWING DESCRIBED REAL ESTATE SITUATED IN

TODD COUNTY, STATE OF MINNESOTA, TO WIT:

The east half of the Southwest Quarter (El/2 of SW1/4) and Southwest Quarter of the Southwest Quarter (SWl/4 of SW1/4) and Government Lot Two (2) all in Section Twenty five (25) Township One Hundred Twenty Nine (129) North, Range Thirty Five (35) West of 5th P.M. containing 159 acres, more or less, according to the United States Government Survey thereof.



Compiled By

Dahlman Abstract Company

Long Prairie, Minnesota

1979 TODD COUNTY MINNESOTA TAX ROLL

in Revelant part:

(Exhibit # 34 of Theusch Deposition)

IN WHOSE NAME ASSESSED:

251 I Theordore J. & Sharon A. Harvey

Osakis, Minn. 56360

SCHOOL DISTRICT:

213

DESCRIPTION:

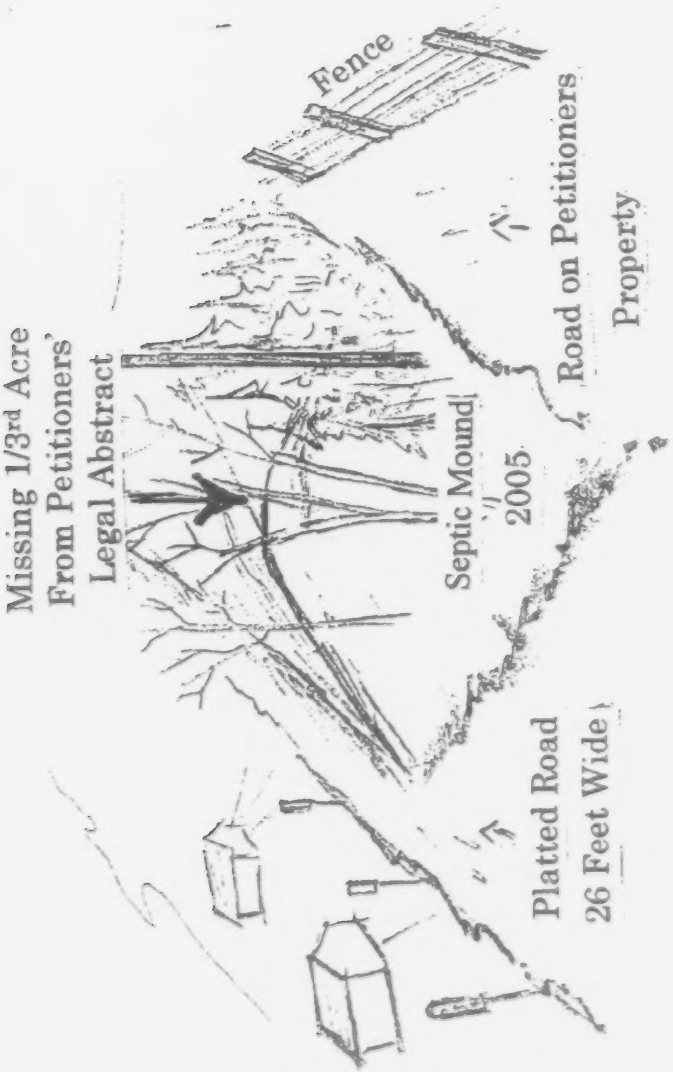
Beg at pt 140 ft. E of NE Cor of Lot 25 Little Deer Beach, E 360 ft. S 450 ft, W 500 ft. N 156 ft. NE to beg. Being part of Lot 2 & SW ¼ SW ¼

RANGE:

35

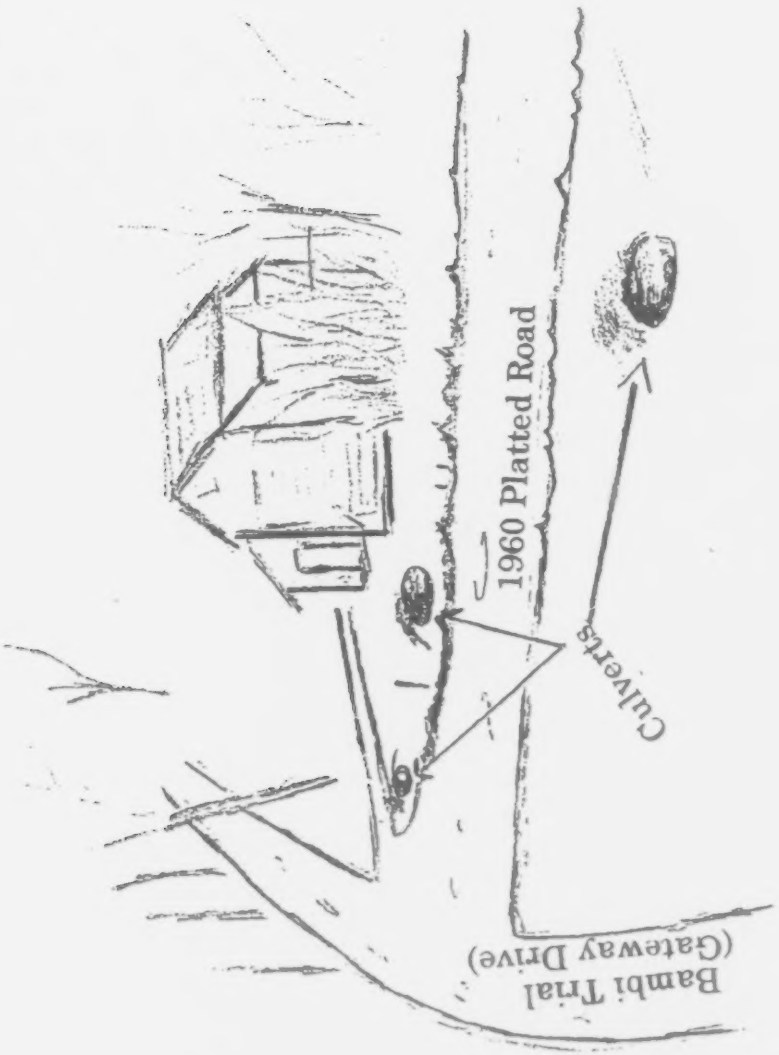
ACRES: 5 (FIVE)

Reproduction of Photo Illustrating Town Road "Forking" thru Petitioners Property on right – 1960 Platted Road on left.


Fence
Road on Petitioners Property
Missing 1/3rd Acre From Petitioners' Legal Abstract
Septic Mound 2005
Platted Road 26 Feet Wide

App. 120

Reproduction of Photo Illustrating Culverts Under 1960 Platted Road (Not on New Road on Petitioners Property)



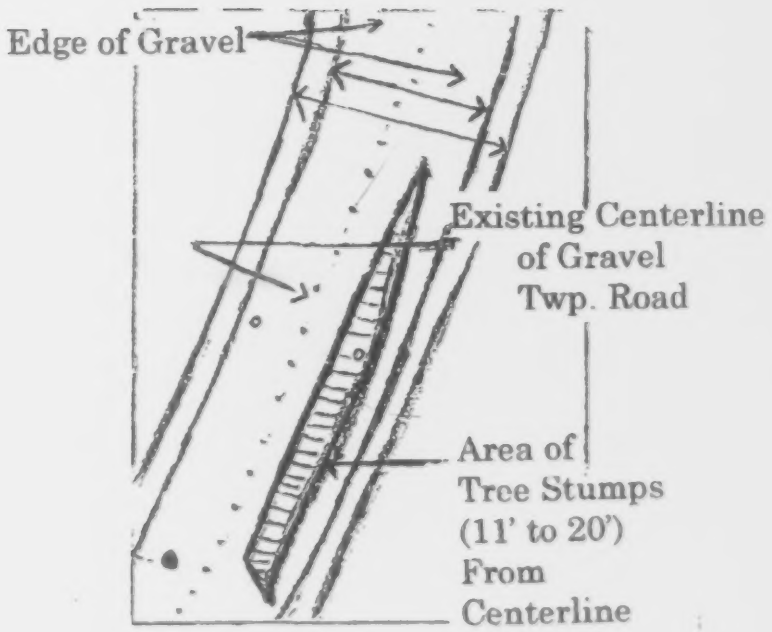
App. 121

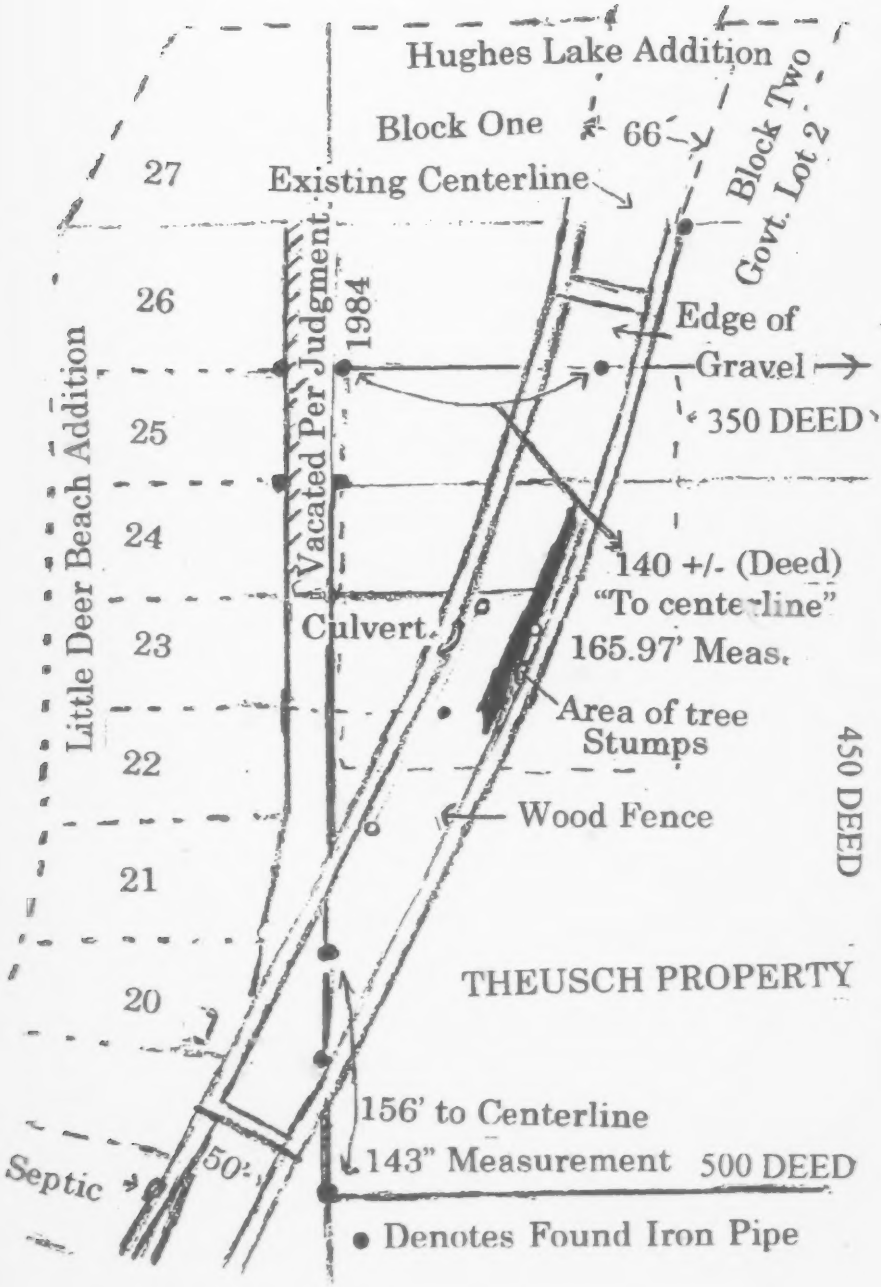
SURVEY PREPARED FOR LESLIE TOWNSHIP

NOVEMBER 11, 2005

In Section 25, twp. 29, Rng. 35

Todd County, Minnesota




Hughes Lake Addition
Block One
66'
Block Two
Govt. Lot 2
27
Existing Centerline
26
Vacated Per Judgment
1984
Edge of
Gravel
350 DEED
25
24
140 +/- (Deed)
"To centerline"
Little Deer Beach Addition
Culvert
23
165.97' Meas.
Area of tree
Stumps
22
Wood Fence
450 DEED
21
THEUSCH PROPERTY
20
156' to Centerline
143" Measurement
500 DEED
Septic
50'
• Denotes Found Iron Pipe

"I hereby certify that this plan, survey, report was prepared y me or under my direct supervision under the laws of the State of Minnesota.

/s/_____

Samual J. Deleo

MN. License No. 40341

11/08/2005

Project No. RAKOH051

KLD

11 North 7th Avenue

Suite 100

St. Cloud, Minnesota 56303

320-259-1265

TODD COUNTY, MINNESOTA
PLANNING ZONING COMMISSION
NOTICE TO ADJOINING PROPERTY OWNERS
AND
TOWNSHIP AND MUNICIPAL OFFICIALS

The Preliminary Plat of Little Osakis Acres" has been submitted by Robert Asseln, Osakis.

The property is located at Lake Osakis, SE corner of Gov't Lot 4 Section 26, Leslie Township containing 7 acres more or less.

Plat consists of: Block l, Lots 1 thru 7.

A public hearing will be held by the Planning and Zoning commission on Thursday May 28th, 1981 at 8:00p.m. in the basement of the Court House Annex, Long Prairie at which time you may appear if you so desire, either in person or by agent or attorney, in opposition to or support of proposed plat.

The hearing of the request is not limited to those receiving copies of this notice, and if you know of any neighbor or affected property owner, who for any reason, has not received a copy, it would be appreciated if you would inform them of this public hearing.

The Planning and Zoning Commission would appreciate any comment or input you may have on this matter.

DATE: May 18,1981

Respectfully,

/s/_____

Ruben C. Kuehne

Planning Commission Chairman

(Petitioners were not on the following attached mailing list even though their property connects to Lot 7 of this Plat)

1. Glen Batten

Osakis

2. David Ostrander
   Route 3, Osakis
3. Robert Lunceford
   Route 3, Osakis
4. Mabel Moulton
   6242 Look Out Trail
   Still Water, Mn
5. Jerry Nortman
   850 Sherwood Ave.
   St. Paul 55106
6. Daniel Orsello
   1544 E. Montana St.
   St. Paul, Minn. 55106
7. Don Clausen
   Route 3, Osakis
8. Jack Mohrland
   Route 3, Osakis
9. Harry Rodenberg

Route 3, Osakis

10. Vincent Hanson

Route 3, Osakis

11. Ronald Starke

10520 President Dr. NE

Blaine 55434

12. Jerry Herber

1045 Grant Circle No.

Anoka 55303

13. Lewis Lehman

19011 Pascal St. NW

Elk River 55330

14. James Jones

4343 Drew Ave. No.

Mpls. 55422

15. Blaine Ostrander

Route 3, Osakis

16. Morris A. Brekke

5731 Osman Ave. No.

Stillwater, Mn.

17. Gordon Duffee
    Route 3, Osakis
18. Ken Eastman Sr.
    Route 3, Osakis
19. Duane Zabel
    Route 3, Osakis
20. Richard Fearing
    Route 3, Osakis
21. Mrs. Ethel Hanson
    Route 3, Osakis
22. Loren Hughes
    Route 3, Osakis
23. Roger Triebenbach
    Route 3, Osakis
24. Chet Sjvern
    Route 3, Osakis
25. Tony Schnieder
    Route 3, Osakis

26. Erhart Farber
    Route 3, Osakis
27. Osakis Telephone Co.
    Osakis, Minn.
28. Minn. Power & Light Co.
    Long Prairie, Minn. 56347
29. Roland Anderson
    Leslie Twp. Chairman
    Long Prairie 56347
30. Darwin Hetland
    Leslie Twp. Clerk
    Osakis, Minn.
31. Ex-officio Commission Members
32. Robert George
    Route 3, Osakis